**IN THE HIGH COURT OF UTTARANCHAL**
**AT NAINITAL**

**Sales Tax Revision No. 4 of 2003**
(Old No. 1556 of 1990)

The Commissioner,
Sales Tax, U.P. Lucknow ...Revisionist

**Versus**

S/S I.D.P.L. Welfare Canteen, Verbhadra,
Rishikesh ... respondent

Sri Subhash Upadhayaya, learned Brief Holder for the State/Revisionist.
Sri V.K. Bisht-Senior Advocate, for the respondent

**Hon'ble J.C.S.Rawat, J.**

This revision has been preferred under Section 11 (1) of U.P. Sales Tax Act, 1948 against the order/ award dated 28.06.1990, passed by the Sales Tax Tribunal, Dehradun.

Heard learned counsel for the parties.

The following substantial question of law was framed by this court :-

*"Whether, on facts and in the circumstances of the case, the Sales Tax Tribunal was legally justified to dismiss the appeal of Commissioner Sales Tax and confirm the order of the Assistant Commissioner (Judicial) by holding that the supply of foodstuffs by the assessee Canteen as 'service' when the dominant object was 'sale' despite the fact that the judgment of the F.C.I. Gorakhpur V. C.S.T.U.P. (1980 U.P.T.C. pg.1) related to the*

*period prior to insertion of Sub-clause (ii) in Section 2 (aa) of the U.P. Trade Tax Act?"*

This revision is squarely covered by the judgment and order dated 12th July, 2006 passed by this court in **The Commissioner, Sales Tax, U.P. Vs. S/S I.D.P.L. Welfare Canteen, Veerbhadra, Rishikesh** wherein it has been held that supply of eatable from the canteen would essentially in the nature of service to its employees by the Company and it could be identified as a sale u/s 2 (h) (vi). The said question was answered in favour of the assessee.

In terms of the above judgment, the revision is disposed of accordingly.

All applications pending in this case are stand disposed of in terms of the judgment.

**(J.C.S. RAWAT, J.)**

26th July, 2006
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